

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 712

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

R. DAVID PEDERSON

AN ACT

RELATING TO CRIMINAL LAW; INCREASING PENALTIES FOR VIOLATIONS OF
THE WORTHLESS CHECK ACT; PROVIDING PRIVATE CIVIL REMEDIES;
INCREASING THE AMOUNT OF PROCESSING FEES THAT MAY BE ASSESSED BY
DISTRICT ATTORNEYS; AMENDING, REPEALING AND ENACTING SECTIONS OF
THE WORTHLESS CHECK ACT; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-36-1 NMSA 1978 (being Laws 1963,
Chapter 315, Section 1) is amended to read:

"30-36-1. SHORT TITLE. -- ~~[This act]~~ Chapter 30, Article 36
NMSA 1978 may be cited as the "Worthless Check Act". "

Section 2. Section 30-36-5 NMSA 1978 (being Laws 1965,
Chapter 114, Section 1) is amended to read:

"30-36-5. PENALTY. -- Any person violating Section ~~[40-49-4~~
~~New Mexico Statutes Annotated, 1953 Compilation]~~ 30-36-4 NMSA

1 1978 shall be punished as follows:

2 A. when the amount of the check, draft or order or
3 the total amount of the checks, drafts or orders ~~[are for more~~
4 ~~than one dollar (\$1.00) but less than twenty-five dollars~~
5 ~~(\$25.00), imprisonment in the county jail for a term of not more~~
6 ~~than thirty days or a fine of not more than one hundred dollars~~
7 ~~(\$100), or both such imprisonment and fine]~~ is less than one
8 hundred dollars (\$100), the person is guilty of a petty
9 misdemeanor;

10 B. when the amount of the check, draft or order or
11 the total amount of the checks, drafts or orders ~~[are for~~
12 ~~twenty-five dollars (\$25.00) or more, imprisonment in the~~
13 ~~penitentiary for a term of not less than one year nor more than~~
14 ~~three years or the payment of a fine of not more than one~~
15 ~~thousand dollars (\$1,000) or both such imprisonment and fine]~~ is
16 one hundred dollars (\$100) or more but less than two hundred
17 fifty dollars (\$250), the person is guilty of a misdemeanor;

18 C. when the amount of the check, draft or order or
19 the total amount of the checks, drafts or orders is two hundred
20 fifty dollars (\$250) or more but less than two thousand five
21 hundred dollars (\$2,500), the person is guilty of a fourth
22 degree felony;

23 D. when the amount of the check, draft or order or
24 the total amount of the checks, drafts or orders is two thousand
25 five hundred dollars (\$2,500) or more but less than twenty

Underscored material = new
[bracketed material] = delete

1 thousand dollars (\$20,000), the person is guilty of a third
2 degree felony; and

3 E. when the amount of the check, draft or order or
4 the total amount of the checks, drafts or orders is twenty
5 thousand dollars (\$20,000) or more, the person is guilty of a
6 second degree felony."

7 Section 3. Section 30-36-10 NMSA 1978 (being Laws 1984,
8 Chapter 110, Section 4) is amended to read:

9 "30-36-10. DISTRICT ATTORNEY--PROCESSING FEE.--

10 A. A district attorney is authorized to assess a
11 processing fee against any person who is convicted of violating
12 Section 30-36-4 NMSA 1978 and against any person who
13 acknowledges violation of that section but for whom prosecution
14 is waived by the district attorney. The processing fee assessed
15 pursuant to this section shall not exceed:

16 (1) [~~five dollars (\$5.00) if the amount of the~~
17 ~~check, draft or order is less than twenty five dollars (\$25.00);~~

18 ~~(2) ten dollars (\$10.00)] twenty-five dollars
19 (\$25.00) if the amount of the check, draft or order is [~~twenty-~~
20 ~~five dollars (\$25.00) or more but]~~ less than one hundred dollars
21 (\$100);~~

22 [~~(3) thirty dollars (\$30.00)] (2) seventy-five
23 dollars (\$75.00) if the amount of the check, draft or order is
24 one hundred dollars (\$100) or more but less than [~~three hundred~~
25 ~~dollars (\$300)] two hundred fifty dollars (\$250);~~~~

.114665.1

Underscored material = new
[bracketed material] = delete

1 [~~(4) fifty dollars (\$50.00)~~] (3) one hundred
2 fifty dollars (\$150) if the amount of the check, draft or order
3 is [~~three hundred dollars (\$300)~~] two hundred fifty dollars
4 (\$250) or more but less than [~~five hundred dollars (\$500)~~] two
5 thousand five hundred dollars (\$2,500); and

6 [~~(5) seventy-five dollars (\$75.00)~~] (4) five
7 hundred dollars (\$500) if the amount of the check, draft or
8 order is [~~five hundred dollars (\$500)~~] two thousand five hundred
9 dollars (\$2,500) or more.

10 B. All processing fees collected by a district
11 attorney pursuant to this section shall be transmitted to the
12 administrative office of the district attorneys for credit to
13 the district attorney fund."

14 Section 4. A new section of the Worthless Check Act is
15 enacted to read:

16 "[NEW MATERIAL] PRIVATE CIVIL REMEDIES. --

17 A. A person who receives a worthless check, draft or
18 order may bring a civil action instead of seeking criminal
19 prosecution of the issuer of the worthless check, draft or
20 order. If the person who received a worthless check, draft or
21 order prevails in his civil action, he may be awarded:

22 (1) three times the amount of the worthless
23 check, draft or order;

24 (2) reasonable attorney fees and costs;

25 (3) pre-judgment interest, at a rate of fifteen

Underscored material = new
[bracketed material] = delete

1 percent per year, on the amount of the worthless check, draft or
2 order, beginning on the date of issuance of the worthless check,
3 draft or order and continuing until it is repaid in full; and

4 (4) post-judgment interest, at a rate of
5 fifteen percent per year, on the amount of the judgment in the
6 civil action, including attorney fees and costs.

7 B. The provisions of Subsection A of this section
8 apply when the amount of the worthless check, draft or order is
9 two hundred fifty dollars (\$250) or less. "

10 Section 5. REPEAL. -- Section 30-36-9 NMSA 1978 (being Laws
11 1963, Chapter 315, Section 9) is repealed.

12 Section 6. EFFECTIVE DATE. -- The effective date of the
13 provisions of this act is July 1, 1997.

14 - 5 -
15
16
17
18
19
20
21
22
23
24
25

State of New Mexico
House of Representatives

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

February 22, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 712

has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

Thomas P. Foy, Chairman

FORTY- THIRD LEGISLATURE
FIRST SESSION, 1997

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 11 For 0 Against

Yes: 11

Excused: Luna, Rios

Absent: None

M \H0712

Underscored material = new
[bracketed material] = delete

**State of New Mexico
House of Representatives**

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

March 6, 1997

1
2
3
4
5
6
7 **Mr. Speaker:**

8 Your APPROPRIATIONS AND FINANCE COMMITTEE, to
9 whom has been referred

10
11 HOUSE BILL 712

12
13 has had it under consideration and reports same with
14 recommendation that it DO PASS.

15 Respectfully submitted,

16
17
18
19 _____
20 Max Coll, Chairman
21
22
23
24
25

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Buffett, Coll, Marquardt, Pearce, Picraux, Saavedra,
Taylor, JP, Watchman

Absent: None

M \H0712

Underscored material = new
[bracketed material] = delete

1 FORTY-THIRD LEGISLATURE
2 FIRST SESSION, 1997

HB 712/a

3
4 March 17, 1997

5
6 Mr. President:

7
8 Your JUDICIARY COMMITTEE, to whom has been referred

9 HOUSE BILL 712

10
11 has had it under consideration and reports same with
12 recommendation that it DO PASS, amended as follows:

13
14 1. On page 4, line 4, after "more" insert a period and strike
15 the remainder of the line.

16 2. On page 4, strike lines 5 through 9 in their entirety.

17
18
19 Respectfully submitted,

20
21
22
23 _____
24 Fernando R. Macias, Chairman
25

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

%%%

Page 11

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 4 For 1 Against

Yes: 4

No: Macias

Excused: Sanchez, Stockard, Vernon

Absent: None

H0712JU1

Underscored material = new
[bracketed material] = delete